

Agents, Navigators and Competition Within and Outside Health Benefit Exchanges

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Where Innovation Is Tradition

Overview

- Agents play indispensable role today, could be vitally important to success (or failure) of HBE
- What PPACA and regulations (so far) require and allow
- VHRI Recommendations so far
- Competitive considerations for 2014 and beyond

PPACA Background

- Intent of PPACA was to create a financially “neutral” advisor for consumers making health insurance plan selections
 - Navigator Program *must* be established
- PPACA also intended to provide state HBEs with choices about who could be Navigators, what rules would govern them, and the role, if any, of agents within the HBE

PPACA Requires HBEs to:

- Establish a Navigator grant program with Navigators (entities or individuals) who can:
 - Conduct public education about insurance options
 - Distribute fair and impartial information (about HBE, QHPs, and public programs)
 - Facilitate enrollment – assist in selecting a QHP -- for all eligible individuals
 - Provide referrals for those with grievances, complaints, or questions about their plan or coverage
 - Provide information that is linguistically and culturally appropriate to HBE population

PPACA Allows Navigators to be:

- Trade, industry, and professional associations
- Commercial fishing industry associations
- Ranching and farming organizations
- Community and consumer-focused non-profits*
- Chambers of Commerce
- Unions
- Resource partners of the SBA
- **Other licensed agents and brokers**
- Other entities that meet standards and carry out duties

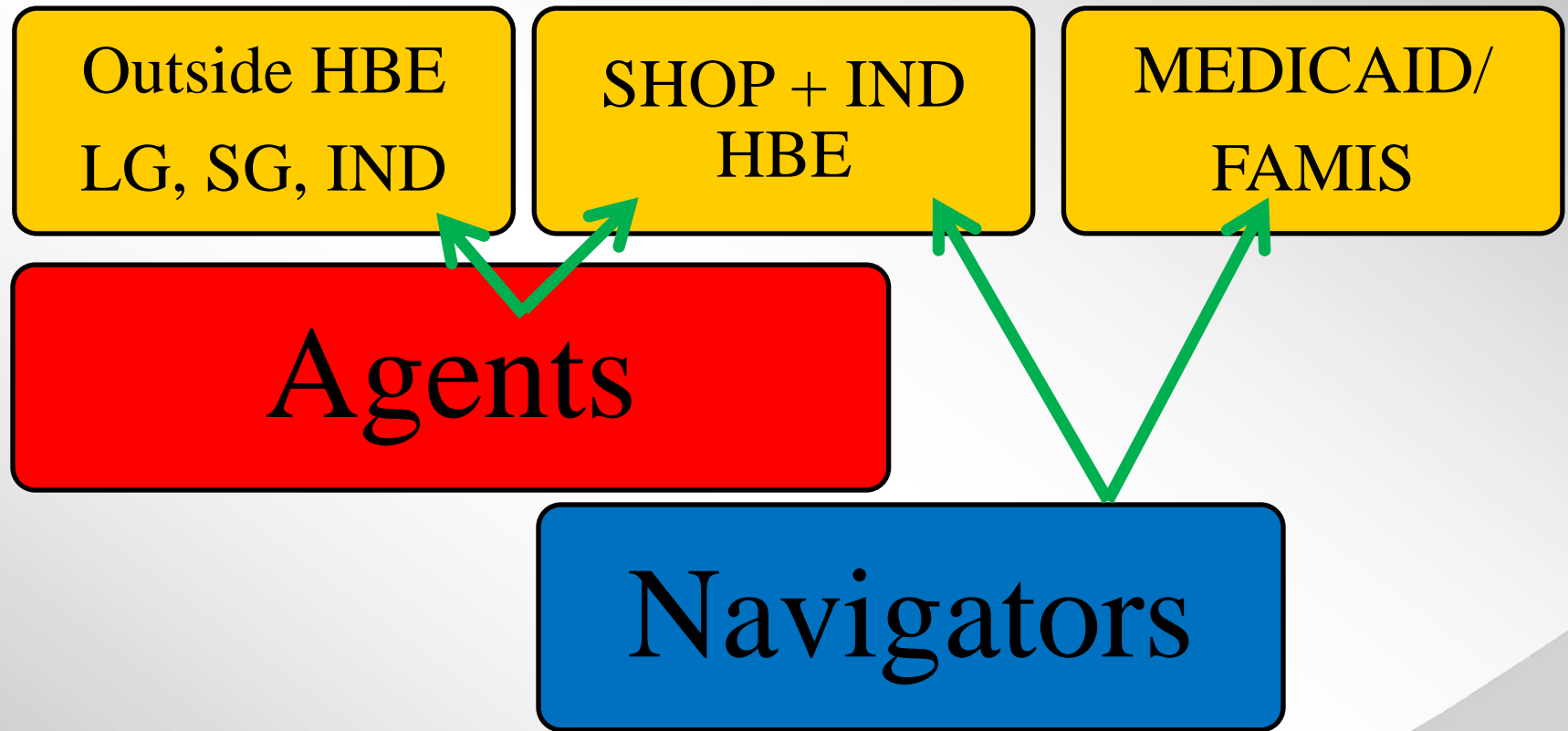
BUT, PPACA also

- PROHIBITS
 - HBE Establishment Grant funding for Navigators
 - Navigators from receiving any direct or indirect consideration from any health insurance issuers in connection with enrollment in specific QHPs
- DIRECTS the Sec of HHS to issue standards for Navigators that, among other things, avoid conflicts of interest (COI)

States and HBEs are free to:

- Set training, conduct, and COI standards for Navigators
- Establish rules and possibly shared funding for Navigators vis a vis Medicaid and SCHIP/FAMIS
- Determine what role Agents will play, and conduct standards plus COI rules for them as well

Who Will Serve Which Markets?



Compensation Issues

- If Agent is Navigator, he/she cannot be paid by plan for “within HBE” enrollment, must be paid by HBE
 - Sets up potential COI with sales outside HBE
- Agents traditionally paid by insurers as percent of premium
 - Commissions range from < 1% to 11% (NAIC)
 - Higher in first year, and vary by insurer
 - Commissions have been falling, and converting to fixed fee per enrollee, ever since MLR rule went into effect

Compensation Issues

- PPACA requires the premium for the same product to be the same if sold inside and outside a HBE
- Therefore, the HBE and the General Assembly must consider the implications of different Agent and Navigator compensation rules, for this could affect competition within and outside the HBE, in 2014 and beyond

VHRI Recommendations so far

- 2010 Report:

- *It is the clear sense of the Task Force and of the full Advisory Council that insurance agents, brokers, and consultants play extremely important roles in educating employers and consumers about health insurance options today, and that therefore they should play important roles in all health insurance markets in the Commonwealth in the future.*

VHRI Recommendations so far

- 2011 Report
 - Agents play a vital role today and should tomorrow and therefore the HBE should allow licensed agents to be Navigators if they want to be.
 - Navigators must be trained and certified.
 - ...general support for observing and making sure that agents are not being incentivized to direct customers either inside or outside the HBE.

VHRI Recommendations So Far

- 2011 Report:
 - BUT: Voted to prevent HBE from regulating agent fees. Clear preference was to leave agent fees to be determined within the marketplace.
 - DESPITE: It is PWC's judgment that the markets will function more as intended if agents are financially neutral about which specific choices their clients make.

Issues Created by PPACA and “Free Market” Agent Compensation

- Navigators will be paid by the HBE, not by plans
 - Marginal cost of Navigator-facilitated enrollment to any specific plan is zero
 - Therefore Agents, if paid by plans at enrollment, will “cost” insurers more of premium than Navigators would
 - This inherently threatens Agents’ role inside the HBE
 - May prefer HBE to pay Agents directly (as CA will)
- Agents *could* be paid more by plans for sales outside HBE
 - This could threaten HBE viability, adverse selection

Some likely realities

- Agents will naturally serve different HBE populations than Navigators
 - SHOP enrollees, higher income individuals
 - SO, competition between Agents and Navigators could be minimal, at least initially
- Agents will want to maintain the right to sell outside the HBE, so they will NOT want to become Navigators and create COI issues

Recent (almost) final regulation

- Allows agents to enroll people in QHPs in the HBE *and access tax credits, if eligible*, through the Agents' own HBE-compliant websites (they must offer all QHPs, etc)
- They can also offer full range of products outside HBE through this web portal as well
 - This may be very popular option for current customers
- ➤ HHS *wants* Agents to play major role

Options for VHRI to Consider

1. Navigator training:

- A. Direct HBE, with help from BOI and DHHS, to develop Navigator (and Agent) training standards for HBE/QHP sales and tax credits

Options for VHRI to Consider

1. Agent Compensation:

- A. Allow the free market to set Agent compensation
- B. Have GA set Agent compensation rates
 - i. And pay them directly
 - ii. Have plans pay them the GA set fees
- C. Allow plans to pay what they want, but require them to pay Agents the same rate inside and outside the HBE, and to report that rate to HBE and BOI